

Points for KTTT Consultation with NIGC on Proposed Class II Regulations

Chairman Juan Garza, Jr.

Good afternoon, Mr. Chairman. It is nice to see you and your team again. I would like to introduce the KTTT representatives who are here with me today. [Make introductions].

We are here to comment on the NIGC's proposed Class II regulations concerning Class II definitions and classification standards.

We believe these proposed regulations, if they become final, will have devastating effects on the KTTT, and we respectfully request that you rethink your approach.

First, the change in definition of the term, "electronic or electromechanical facsimile" would severely restrict the types of games a Class II facility could offer.

According to the NIGC, this change is required to "make clear that all games including bingo, lotto, and other games similar to bingo when played in an electronic medium are facsimiles when they incorporate all of the fundamental characteristics of the game." We believe this will unnecessarily and dramatically restrict the types of games our Class II gaming facility would be able to offer.

The IGRA never intended to prohibit the use of electronics to play bingo. Rather, Congress, when enacting IGRA, specifically said that it intended for tribes to be able to use modern methods of conducting Class II games. Electronics do not make bingo into a facsimile unless they fundamentally alter the game and allow a player to play alone with or against the

machine. The proposed regulations go far beyond this clear line drawn by Congress.

Further, the proposed classification standard regulations would restrict the types of Class II games we could offer, restricting them to "traditional" bingo and only allowing minor variations for games similar to bingo. We would also be restricted on what types of technological aids we could use. The games would be slower and less attractive to our customers.

The NIGC knows that the KTTT is in a unique situation. It participated in our Secretarial Procedures application informal conference in December 2004.

While our Class II Lucky Eagle Casino has provided our Tribe with governmental revenues and jobs, the Tribal representatives here live each day knowing we can be doing more.

The KTTT is subject to the IGRA. We have a right to offer Class III gaming. Unfortunately for us, unlike most states across the country-side, the State of Texas refuses to negotiate a Tribal-State gaming compact for Class III gaming even though the State permits a broad variety of games within its borders. In an effort to stop us from exercising our rights to offer Class III gaming, the State has gone so far as to sue the United States, alleging that the Secretarial Procedures regulations are illegal. The Tribe intervened in that case to assist in defending the regulations and to continue our effort to exercise our rights.

The KTTT is one of the tribes in the U.S. who is stuck with Class II gaming because of an uncooperative state. This is unfair. Yet, we continue to strive toward exercising our rights under the law.

Progress toward Class III under the Secretarial Procedures, however, has been slow. We are still awaiting our scope of gaming decision from the Department. There seems to be no hurry by the Department to advance us toward Class III.

With this, your proposed regulations put us in a very difficult situation.

While we strive for and look to the day when we will offer Class III gaming, we must endure the limitations of Class II gaming now. If your proposed regulations become final, we will be forced to endure overly burdensome limitations, and fear that we will be put out of business. Presently, we compete with eight-liners and other gaming in Texas. We work hard now to attract customers to our remote location. We do not, however, believe our out-of-area customers will make the effort to travel to us to play “traditional” bingo, which the regulations would restrict us to.

Our governmental revenues will dramatically decrease. Further, we may be forced to let some of our casino personnel go. Currently, we are one of the top three largest employers in Maverick County, one of the poorest counties in Texas. The change in our gaming facility, resulting from your proposed regulations, will not only have an effect on the Tribe, but on the larger community as well.

The main impact will be our inability to meet the needs of our members. Through Class II gaming, the Tribe has been able to provide governmental services in the areas of housing, healthcare and education. The unmet need among our people, however, remains extreme. A significant reduction in governmental revenue from gaming, which would happen if the regulations become final, would have devastating effects on the Tribe. IGRA's goal of promoting self-sufficiency would be lost. Our children and elders would suffer.

We ask you to rethink your approach. At the very least, we ask the NIGC to include a provision "grandfathering" any game already in operation by a tribe that it is in the procedures process. Failing to do so would unfairly penalize tribes for the failure of the states and the federal government to follow the law.

Last, we ask you, as part of the Federal government, to do what you can to see that our Secretarial Procedures application is processed as quickly as possible.

Thank you for your time.